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13 UNITED STATES BANKRUPTCY COURT
14
15 NORTHERN DISTRICT OF CALIFORNIA
16
17 SAN FRANCISCO DIVISION
18

13 **In re:**

14 **PG&E CORPORATION,**

15 **- and -**

16 **PACIFIC GAS AND ELECTRIC**
17 **COMPANY,**

18 **Debtors,**

- 19 ☐ Affects PG&E Corporation
20 ☐ Affects Pacific Gas and Electric Company
21 ☒ Affects both Debtors

Case No. 19-30088 (DM)

Chapter 11
(Lead Case)
(Jointly Administered)

**OBJECTION AND RESERVATION OF
RIGHTS OF PENINSULA CORRIDOR
JOINT POWERS BOARD TO DEBTORS'
(I) PROPOSED ASSUMPTION OF
EXECUTORY CONTRACTS AND
UNEXPIRED LEASES PURSUANT TO THE
DEBTORS' AND SHAREHOLDER
PROONENTS JOINT CHAPTER 11 PLAN
OF REORGANIZATION AND (II)
PROPOSED CURE AMOUNTS**

22
23 COMES NOW, PENINSULA CORRIDOR JOINT POWERS BOARD¹ (“JPB”), by and
24 through its undersigned counsel, hereby submits this objection (the “Objection”) to the above-
25 captioned Debtors' (I) Proposed Assumption of Executory Contracts and Unexpired Leases
26 Pursuant to the Debtors' and Shareholder Proponents Joint Chapter 11 Plan of Reorganization and
27

28 ¹ Peninsula Corridor Joint Powers Board owns and operates Caltrain.

(II) Proposed Cure Amounts (the "Assumption Notice") (*see* Docket No. 7085, p. 239-246, filed May 6, 2020 (POS)), as follows:

I. BACKGROUND

1. On January 29, 2019, (the "Petition Date"), the Debtors commenced this Chapter 11 case by filing voluntary petitions for relief under Chapter 11 of the Bankruptcy Code, and an Order for Relief was entered on that date.

2. On October 21, 2019, JPB timely filed a proof of claim in the amount of \$233,483.40 (the "Claim No. 78481").

3. On March 16, 2020, the Plan Proponents (defined in the Plan) filed the Debtors' and Shareholder Proponents' Joint Chapter 11 Plan of Reorganization, Dated March 16, 2020 (the "Plan"). (Docket No. 6320.)

4. The Plan proposes to assume all executory contracts and unexpired leases unless specifically designated for rejection. (Docket No. 6320, § 8.1(a).)

5. On May 1, 2020, the Plan Proponents filed the Notice of Filing of Plan Supplement in Connection With Debtors' and Shareholder Proponents' Joint Chapter 11 Plan of Reorganization Dated March 16, 2020 (the "Plan Supplement"). (Docket No. 7037.)

6. Exhibit B to the Plan Supplement is a Schedule of Executory Contracts and Unexpired Leases to be Assumed Pursuant to the Plan and Proposed Cure Amounts (the "Assumption Schedule"). (Docket No. 7037.)

7. The Assumption Notice provides a deadline of May 15, 2020, for objecting to the proposed cure amounts listed in the Assumption Schedule. (*See* Docket No. 7085, p. 239-246, filed May 6, 2020 (POS)).

8. The Assumption Schedule lists a total of thirty-one (31) purported executory contracts or unexpired leases with JPB² (the "Listed Contracts/Leases"). (Docket No. 7037.) Summary of the Listed Contracts/Leases is attached as **Exhibit 1**.

9. All of the Listed Contracts/Leases are identified as having a cure amount of \$0.00.

² Five (5) of the Listed Contracts/Leases name the Non-Debtor Counterparty Name as Caltrain. As indicated above, Caltrain is owned and operated by Peninsula Corridor Joint Powers Board.

(Docket No. 7037).

II. OBJECTION

Section 365(a) of the Bankruptcy Code authorizes the debtor, subject to Court approval, to assume or reject an executory contract. 11 U.S.C. § 365(a). Section 365(b)(1) further provides:

If there has been a default in an executory contract or unexpired lease of the debtor, the trustee may not assume such contract or lease unless, at the time of assumption of such contract or lease, the trustee—

(A) cures, or provides adequate assurance that the trustee will promptly cure, such default . . . ;

(B) compensates, or provides adequate assurance that the trustee will promptly compensate, a party other than the debtor to such contract or lease, for an actual pecuniary loss to such party resulting from such default

11 U.S.C. § 365(b).

The information provided in the Assumption Schedule does not include any locations or client-specific contract/lease information corresponding to JPB's contract/lease data. Therefore, without further information, it is unclear what contracts/leases the Debtors are referencing and it is impossible for JPB to analyze any applicable cure amounts.

In addition, it is unclear whether any of the contracts/leases relate to Claim No. 78481; if they do, JPB asserts a cure amount in the amount of \$233,483.40, plus any amounts that have accrued since the filing Claim No. 78481. A copy of Claim No. 78481 is attached as **Exhibit 2**. JPB is continuing to investigate various contracts/leases with the Debtors and reserves its rights to assert additional cure amounts once it is able to identify and analyze those contracts/leases.

The Debtors should be required to clarify which leases/contracts they are seeking to assume and provide copies of the same. Once JPB receives the information and copies of the contracts/leases, JPB should be afforded a reasonable period of time to investigate and assert any applicable objections. Accordingly, JPB reserves all rights to object once the Debtors have adequately identified the contracts/leases, have been provided copies, and JPB has had time to review the same.

To the extent that the Plan Supplement or the Plan seeks to assume other unidentified contracts/leases, JPB reserves the right to assert a cure amount or assert any applicable objections

once the contracts/leases are identified.

WHEREFORE, JPB requests that the Court enter an Order requiring the Debtors to:

1. Adequately identify and provide copies of the Listed Contracts/Leases;
2. After identification and after providing copies of the Listed Contracts/Leases to JPB, allow JPB a reasonable period of time to investigate and assert any applicable objections;
3. To the extent that the Plan Supplement or the Plan seeks to assume other unidentified contracts/leases, allow JPB a reasonable period of time to investigate and assert any applicable objections, including objections to the cure amount then proposed;
4. Require the Debtors to remedy all defaults under any contracts/leases with JPB prior to entry of an order allowing assumption; and
5. Grant such other and further relief as the Court deems just and appropriate.

DATED: May 15, 2020

WENDEL ROSEN LLP

By: /s/ Lisa Lenherr
Lisa Lenherr
Attorneys for Peninsula Corridor Joint Powers
Board

EXHIBIT 1

Non-Debtor Counterparty Name	Match ID	Contract ID	Debtor Name	Address	City	State	Country	ZIP Code	Title of Agreement	Effective Date of Agreement	Cure Amount ¹
[REDACTED]	1	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	-
PENINSULA CORRIDOR JOINT POWERS BOARD	1011069	CRPSECLIC1_04013	PACIFIC GAS AND ELECTRIC COMPANY	1250 SAN CARLOS AVE	SAN CARLOS	CA	US	94070	LEASE - 2303050894		-
PENINSULA CORRIDOR JOINT POWERS BOARD	1011069	CRPSECLIC1_04014	PACIFIC GAS AND ELECTRIC COMPANY	1250 SAN CARLOS AVE	SAN CARLOS	CA	US	94070	LEASE - 2303051691		-
PENINSULA CORRIDOR JOINT POWERS BOARD	1011069	CRPSECLIC1_04015	PACIFIC GAS AND ELECTRIC COMPANY	1250 SAN CARLOS AVE	SAN CARLOS	CA	US	94070	LEASE - 2304040253		-
PENINSULA CORRIDOR JOINT POWERS BOARD	1011069	CRPSECLIC1_04016	PACIFIC GAS AND ELECTRIC COMPANY	1250 SAN CARLOS AVE	SAN CARLOS	CA	US	94070	LEASE - 2304040254		-
PENINSULA CORRIDOR JOINT POWERS BOARD	1011069	CRPSECLIC1_04017	PACIFIC GAS AND ELECTRIC COMPANY	1250 SAN CARLOS AVE	SAN CARLOS	CA	US	94070	LEASE - 2304040263		-
PENINSULA CORRIDOR JOINT POWERS BOARD	1011069	CRPSECLIC1_04018	PACIFIC GAS AND ELECTRIC COMPANY	1250 SAN CARLOS AVE	SAN CARLOS	CA	US	94070	LICENSE - 2304041474		-
PENINSULA CORRIDOR JOINT POWERS BOARD	1011069	CRPSECLIC1_04019	PACIFIC GAS AND ELECTRIC COMPANY	1250 SAN CARLOS AVE	SAN CARLOS	CA	US	94070	LEASE - 2304050477		-
PENINSULA CORRIDOR JOINT POWERS BOARD	1011069	CRPSECLIC1_04020	PACIFIC GAS AND ELECTRIC COMPANY	1250 SAN CARLOS AVE	SAN CARLOS	CA	US	94070	LEASE - 2304051250		-

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Non-Debtor Counterparty Name	Match ID	Contract ID	Debtor Name	Address	City	State	Country	ZIP Code	Title of Agreement	Effective Date of Agreement	Cure Amount ¹
PENINSULA CORRIDOR JOINT POWERS BOARD	1011069	CRPSECLIC1_04021	PACIFIC GAS AND ELECTRIC COMPANY	1250 SAN CARLOS AVE	SAN CARLOS	CA	US	94070	LEASE - 2305030546		-
PENINSULA CORRIDOR JOINT POWERS BOARD	1011069	CRPSECLIC1_04022	PACIFIC GAS AND ELECTRIC COMPANY	1250 SAN CARLOS AVE	SAN CARLOS	CA	US	94070	LEASE - 2305030834		-
PENINSULA CORRIDOR JOINT POWERS BOARD	1011069	CRPSECLIC1_04023	PACIFIC GAS AND ELECTRIC COMPANY	1250 SAN CARLOS AVE	SAN CARLOS	CA	US	94070	LEASE - 2305031486		-
PENINSULA CORRIDOR JOINT POWERS BOARD	1011069	CRPSECLIC1_04024	PACIFIC GAS AND ELECTRIC COMPANY	1250 SAN CARLOS AVE	SAN CARLOS	CA	US	94070	LEASE - 2305031523		-
PENINSULA CORRIDOR JOINT POWERS BOARD	1011069	CRPSECLIC1_04025	PACIFIC GAS AND ELECTRIC COMPANY	1250 SAN CARLOS AVE	SAN CARLOS	CA	US	94070	LICENSE - 2305032034		-
PENINSULA CORRIDOR JOINT POWERS BOARD	1011069	CRPSECLIC1_04026	PACIFIC GAS AND ELECTRIC COMPANY	1250 SAN CARLOS AVE	SAN CARLOS	CA	US	94070	LEASE - 2305032154		-
PENINSULA CORRIDOR JOINT POWERS BOARD	1011069	CRPSECLIC1_04027	PACIFIC GAS AND ELECTRIC COMPANY	1250 SAN CARLOS AVE	SAN CARLOS	CA	US	94070	LEASE - 2305041031		-
PENINSULA CORRIDOR JOINT POWERS BOARD	1011069	CRPSECLIC1_04028	PACIFIC GAS AND ELECTRIC COMPANY	1250 SAN CARLOS AVE	SAN CARLOS	CA	US	94070	LICENSE - 2305042064		-
PENINSULA CORRIDOR JOINT POWERS BOARD	1011069	CRPSECLIC1_04029	PACIFIC GAS AND ELECTRIC COMPANY	1250 SAN CARLOS AVE	SAN CARLOS	CA	US	94070	LEASE - 2306010503		-
PENINSULA CORRIDOR JOINT POWERS BOARD	1011069	CRPSECLIC1_04030	PACIFIC GAS AND ELECTRIC COMPANY	1250 SAN CARLOS AVE	SAN CARLOS	CA	US	94070	LICENSE - 2306023169		-
PENINSULA CORRIDOR JOINT POWERS BOARD	1011069	CRPSECLIC1_04031	PACIFIC GAS AND ELECTRIC COMPANY	1250 SAN CARLOS AVE	SAN CARLOS	CA	US	94070	LEASE - 2307011729		-
PENINSULA CORRIDOR JOINT POWERS BOARD	1011069	CRPSECLIC1_04032	PACIFIC GAS AND ELECTRIC COMPANY	1250 SAN CARLOS AVE	SAN CARLOS	CA	US	94070	LICENSE - EEXX000000		-

Non-Debtor Counterparty Name	Match ID	Contract ID	Debtor Name	Address	City	State	Country	ZIP Code	Title of Agreement	Effective Date of Agreement	Cure Amount ¹
PENINSULA CORRIDOR JOINT POWERS BOARD	1011069	CRPSECLIC1_04033	PACIFIC GAS AND ELECTRIC COMPANY	1250 SAN CARLOS AVE	SAN CARLOS	CA	US	94070	AGREEMENT - XX00000000		-
PENINSULA CORRIDOR JOINT POWERS BOARD	1011069	CRPSECLIC1_04034	PACIFIC GAS AND ELECTRIC COMPANY	1250 SAN CARLOS AVE	SAN CARLOS	CA	US	94070	LICENSE - XXEE000000		-
PENINSULA CORRIDOR JOINT POWERS BOARD	1011069	CRPSECLIC1_04035	PACIFIC GAS AND ELECTRIC COMPANY	1250 SAN CARLOS AVE	SAN CARLOS	CA	US	94070	LEASE - XXSF001252		-
PENINSULA CORRIDOR JOINT POWERS BOARD	1011069	CRPSECLIC1_04036	PACIFIC GAS AND ELECTRIC COMPANY	1250 SAN CARLOS AVE	SAN CARLOS	CA	US	94070	LEASE - XXSF002146		-
PENINSULA CORRIDOR JOINT POWERS BOARD	1011069	CRPSECLIC1_04037	PACIFIC GAS AND ELECTRIC COMPANY	1250 SAN CARLOS AVE	SAN CARLOS	CA	US	94070	LEASE - XXSF002176		-
PENINSULA CORRIDOR JOINT POWERS BOARD	1011069	CRPSECLIC1_04038	PACIFIC GAS AND ELECTRIC COMPANY	1250 SAN CARLOS AVE	SAN CARLOS	CA	US	94070	LEASE - XXSF002186		-
									XXMA010139		-
											-

Non-Debtor Counterparty Name	Match ID	Contract ID	Debtor Name	Address	City	State	ZIP Code	Country	Title of Agreement	Effective Date of Agreement	Cure Amount ¹
CALTRAIN	1020456	ELCOPS1_00055	PACIFIC GAS AND ELECTRIC COMPANY	1250 SAN CARLOS AVE	SAN CARLOS	CA	94070-1306		MASTER INTERCONNECTION AGREEMENT	4/1/2016	-
CALTRAIN	1020456	ELCOPS1_00056	PACIFIC GAS AND ELECTRIC COMPANY	1250 SAN CARLOS AVE	SAN CARLOS	CA	94070-1306		SUPPLEMENT NO. 1	4/1/2016	-
CALTRAIN	1020456	ELCOPS1_00057	PACIFIC GAS AND ELECTRIC COMPANY	1250 SAN CARLOS AVE	SAN CARLOS	CA	94070-1306		SUPPLEMENT NO. 2	11/1/2016	-
CALTRAIN	1020456	ELCOPS1_00058	PACIFIC GAS AND ELECTRIC COMPANY	1250 SAN CARLOS AVE	SAN CARLOS	CA	94070-1306		SUPPLEMENT NO. 5	11/1/2016	-
CALTRAIN	1020456	ELCOPS1_00059	PACIFIC GAS AND ELECTRIC COMPANY	1250 SAN CARLOS AVE	SAN CARLOS	CA	94070-1306		SUPPLEMENT NO. 3	8/1/2017	-
CALTRAIN	1020456	ELCOPS1_00060	PACIFIC GAS AND ELECTRIC COMPANY	1250 SAN CARLOS AVE	SAN CARLOS	CA	94070-1306		SUPPLEMENT NO. 4	9/1/2017	-

¹The amounts identified herein under the column titled "Cure Amount" are exclusive of any post-petition interest to be paid on account of such amounts pursuant to the Plan.

EXHIBIT 2

United States Bankruptcy Court, Northern District of California

Fill in this information to identify the case (Select only one Debtor per claim form):

- ☐ PG&E Corporation (19-30088)
- ☒ Pacific Gas and Electric Company (19-30089)

Official Form 410

Proof of Claim

04/16

Read the instructions before filling out this form. This form is for making a claim for payment in a bankruptcy case. Do not use this form to make a request for payment of an administrative expense. Make such a request according to 11 U.S.C. § 503.

Filers must leave out or redact information that is entitled to privacy on this form or on any attached documents. Attach redacted copies of any documents that support the claim, such as promissory notes, purchase orders, invoices, itemized statements of running accounts, contracts, judgments, mortgages, and security agreements. Do not send original documents; they may be destroyed after scanning. If the documents are not available, explain in an attachment.

A person who files a fraudulent claim could be fined up to \$500,000, imprisoned for up to 5 years, or both. 18 U.S.C. §§ 152, 157, and 3571.

Fill in all the information about the claim as of the date the case was filed. That date is on the notice of bankruptcy (Form 309) that you received.

Unless an exception in the Bar Date Order applies to you, you should not use this form to submit a claim that arises out of or relates to the fires that occurred in Northern California prior to January 29, 2018.

Part 1: Identify the Claim

1. Who is the current creditor?	Peninsula Corridor Joint Powers Board Name of the current creditor (the person or entity to be paid for this claim) Other names the creditor used with the debtor	
2. Has this claim been acquired from someone else?	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. From whom?	
3. Where should notices and payments to the creditor be sent? Federal Rule of Bankruptcy Procedure (FRBP) 2002(g)	Where should notices to the creditor be sent? Peninsula Corridor Joint Powers Board c/o Lisa Lenherr, Esq. Wendel Rosen LLP 1111 Broadway, 24th Floor Oakland, CA 94607 Contact phone 510-834-8600 Contact email llenherr@wendel.com	Where should payments to the creditor be sent? (if different) Peninsula Corridor Joint Powers Board (PCJPB) C/O South San Francisco Station Improvement Project (#002146) Attn: Howard Beckford 1250 San Carlos Avenue San Carlos, CA 94070 Contact phone 650-622-7852 Contact email
4. Does this claim amend one already filed?	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. Claim number on court claims registry (if known) Filed on MM / DD / YYYY	
5. Do you know if anyone else has filed a proof of claim for this claim?	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. Who made the earlier filing?	

Part 2: Give Information About the Claim as of the Date the Case Was Filed

6. Do you have any number you use to identify the debtor? ☒ No
☐ Yes. Last 4 digits of the debtor's account or any number you use to identify the debtor: _____

7. How much is the claim? \$ \$233,483.40 Does this amount include interest or other charges?
☒ No
☐ Yes. Attach statement itemizing interest, fees, expenses, or other charges required by Bankruptcy Rule 3001(c)(2)(A).

8. What is the basis of the claim? Examples: Goods sold, money loaned, lease, services performed, personal injury or wrongful death, or credit card.
Attach redacted copies of any documents supporting the claim required by Bankruptcy Rule 3001(c).
Limit disclosing information that is entitled to privacy, such as health care information.
JPG experienced additional delays in PG&E utility relocation due to encroachment of PG&E's property upon PCJPR's railroad right-of-way and construction zone. Specifically, CenturyLink and Zayo Fiber were discovered on around July 31, 2019, prior to completion of all PG&E Electric Utility relocation. To minimize this delay and further expedite the removal of the fiber optic lines from within construction zone, a formal Engineering Notice (attached) was also sent to PG&E by JPR's Capital Project Support and Property Management on August 28, 2019. During the delay period (45 days), the project incurred extended overhead delays to its contractor (Pierney Fiber Relocation was completed on September 12, 2019, plus attorney's fees and costs to the extent permitted by law.

9. Is all or part of the claim secured? ☒ No
☐ Yes. The claim is secured by a lien on property.
Nature of property:
☐ Real estate. If the claim is secured by the debtor's principal residence, file a *Mortgage Proof of Claim Attachment* (Official Form 410-A) with this *Proof of Claim*.
☐ Motor vehicle
☐ Other. Describe: _____
Basis for perfection: _____
Attach redacted copies of documents, if any, that show evidence of perfection of a security interest (for example, a mortgage, lien, certificate of title, financing statement, or other document that shows the lien has been filed or recorded.)
Value of property: \$ _____
Amount of the claim that is secured: \$ _____
Amount of the claim that is unsecured: \$ _____ (The sum of the secured and unsecured amounts should match the amount in line 7.)
Amount necessary to cure any default as of the date of the petition: \$ _____
Annual Interest Rate (when case was filed) _____ %
☐ Fixed
☐ Variable

10. Is this claim based on a lease? ☐ No
☐ Yes. Amount necessary to cure any default as of the date of the petition. \$ _____

11. Is this claim subject to a right of setoff? ☒ No
☐ Yes. Identify the property: _____

12. Is all or part of the claim entitled to priority under 11 U.S.C. § 507(a)?

☒ No

☐ Yes. Check one:

A claim may be partly priority and partly nonpriority. For example, in some categories, the law limits the amount entitled to priority.

☐ Domestic support obligations (including alimony and child support) under 11 U.S.C. § 507(a)(1)(A) or (a)(1)(B).

Amount entitled to priority

\$ _____

☐ Up to \$2,850 of deposits toward purchase, lease, or rental of property or services for personal, family, or household use. 11 U.S.C. § 507(a)(7).

\$ _____

☐ Wages, salaries, or commissions (up to \$12,850) earned within 180 days before the bankruptcy petition is filed or the debtor's business ends, whichever is earlier. 11 U.S.C. § 507(a)(4).

\$ _____

☐ Taxes or penalties owed to governmental units. 11 U.S.C. § 507(a)(8).

\$ _____

☐ Contributions to an employee benefit plan. 11 U.S.C. § 507(a)(5).

\$ _____

☐ Other. Specify subsection of 11 U.S.C. § 507(a)() that applies.

\$ _____

* Amounts are subject to adjustment on 4/01/19 and every 3 years after that for cases begun on or after the date of adjustment.

Part 3: Sign Below

The person completing this proof of claim must sign and date it. FRBP 9011(b).

If you file this claim electronically, FRBP 5005(a)(2) authorizes courts to establish local rules specifying what a signature is.

A person who files a fraudulent claim could be fined up to \$500,000, imprisoned for up to 5 years, or both. 18 U.S.C. §§ 152, 157, and 3571.

Check the appropriate box:

☐ I am the creditor.

☒ I am the creditor's attorney or authorized agent.

☐ I am the trustee, or the debtor, or their authorized agent. Bankruptcy Rule 3004.


☐ I am a guarantor, surety, endorser, or other codebtor. Bankruptcy Rule 3005.

I understand that an authorized signature on this *Proof of Claim* serves as an acknowledgment that when calculating the amount of the claim, the creditor gave the debtor credit for any payments received toward the debt.

I have examined the information in this *Proof of Claim* and have a reasonable belief that the information is true and correct.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on date 10/21/2019 (mm/dd/yyyy)


Signature

Print the name of the person who is completing and signing this claim:

Name	Derek Hansel		
	First name	Middle name	Last name
Title	CFO		
Company	Peninsula Corridor Joint Powers Board		
	Identify the corporate servicer as the company if the authorized agent is a servicer.		
Address	1250 San Carlos Avenue		
	Number	Street	
	San Carlos, CA 94070		
	City	State	ZIP Code
Contact phone	850-622-7852	Email	hanseld@samtrans.com



Date: 09/25/2019

Subject: Contract Change Order No.039 – South San Francisco Station Improvements

By: Jude Dictado, PE
Resident Engineer

Subject: CCO #039 – Continuation of Partial Suspension from 4/1/2019 to 9/15/2019

Project: 17-J-C-063

Section: Record of Negotiation

1. On 05/16/19, PMI submitted SL 136, PCO 115, requesting a change order for the amount of \$863,023 to cover TRO costs associated with extending the partial suspension from 4/1/2019 to 8/1/19.
2. On 6/5/19, JPB issued letter 72 requesting additional backup documentation to justify TRO costs for personnel (actual costs), TRO for Phoenix Electric, and home office overhead.
3. On 6/6/19, PMI submitted SL 136.1, PCO 115, responding to JPB's Letter 72. PMI provided additional backup information for the cost proposal. The revised cost proposal was \$842,512.42
4. On 6/26/19, JPB issued letter 76 requesting additional information to continue the TRO cost negotiation. It included personnel time sheets for PMI and PEC, as well as home office overhead calculations.
5. On 8/23/19, PMI and JPB representatives met to discuss lump sum and daily rates. Group agreed on a lump sum of \$633,000 for all TRO costs (PMI and PEC) from 4/1/19 to 8/1/19 – excluding 8/1/19. Group agreed on a daily rate of \$5,188.52 up to 45 days beyond 8/1/2019 which will be established via TIAs.
6. On 8/27/19, PMI provided revised language addressing weather related impacts to JPB via e-mail. Via e-mail, PMI related that their team was reviewing the list of work to be performed during partial suspension and might provide revisions.
7. On 9/16/19, PMI agreed to completion dates via e-mail. OCS milestone extended to 4/10/20 and project final completion extended to 12/9/20 (167 CD).
8. On 9/19/19, PMI and JPB representatives met to discuss final milestone date. Group agreed to extend the OCS foundation milestone to 4/10/19. JPB sent a final version of CCO 39 for language approval.
9. On 9/23/19, PMI accepted CCO 39 language via e-mail.

JPB believes that the settled amount constitutes a fair and reasonable amount for owner/3rd party caused delay.

**10 DAY NOTICE TO REMOVE ENCROACHMENT
FROM PENINSULA CORRIDOR JOINT POWERS
BOARD'S
RAILROAD RIGHT-OF-WAY**

Posted, Via Certified Mail and Email

Pacific Gas and Electric
77 Beale Street
San Francisco, CA 94105
ATTN: Jessica Albietz, Principal Program Manager

Re: *Immediate Removal of Encroachment on Peninsula Corridor Joint Powers Board
Railroad Right-of-Way in South San Francisco*

Dear Property Owner:

The purpose of this letter is to inform you that you have created, maintained, or allowed an encroachment in South San Francisco, on the Peninsula Corridor Joint Powers Board ("PCJBP") railroad's right-of-way at Post Mile 9.1. Please be advised that you must remove the encroachment from the South San Francisco pedestrian underpass construction zone by September 7, 2019 or face legal action or other consequences.

The PCJBP has learned that there is an encroachment from your property onto the PCJBP's railroad right-of-way. Specifically, CenturyLink and Zayo fiber as shown in the attached drawing. The PCJBP is now in the final stages of planning and implementing required construction activities, for the South San Francisco pedestrian underpass and center boarding platform in the area of the encroachment. This construction requires that you immediately remove the encroachment from said construction zone.

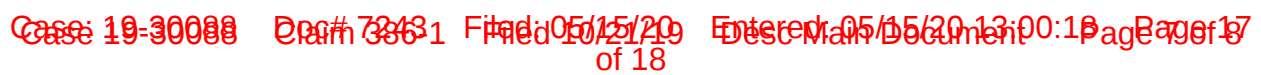
If you fail to remove the encroachment from the construction zone, the PCJBP will be forced to take legal action against you in the form of an action at law and/ or in equity to compel removal of the encroachment. The PCJBP may seek an injunction in the form of a court order for you to remove the encroachment, to declare and require abatement of the encroaching area as a public nuisance, or to eject you from the PCJBP public benefit railroad right-of-way. The PCJBP may also seek damages in the form of back rent for your permanent trespass, for diminution of value of its railroad right-of-way, and for all attorneys' fees and costs associated with any legal action taken against you. In the alternative, the PCJBP may remove the encroachment and/ or abate the public nuisance itself and bill you for its associated fees and costs.

Please note that if there is any delay in the PCJBP's South San Francisco pedestrian underpass construction project due to your failure to remove the encroachment from the railroad's right-of-way, the PCJBP will hold you responsible for all damages associated with the delay, including but not limited to any consequential damages as well as liquidated damages as provided by the PCJBP's contract with its contractor.

1011331.1

If you have any questions, or require further information, you may contact Howard Beckford at the PCJPB at (650) 508-7852.

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NEGOTIATED TRO CALCULATION - 09/25/2019

Start Date	End Date	Days	Rate	Total
4/1/2019	8/1/2019	122	\$ 633,000.00	\$ 633,000.00
8/1/2019	9/15/2019	45	\$ 5,188.52	\$ 233,483.40
167				\$ 866,483.40

	Days	Rate	Total
PMI Share	167	\$ 4,588.52	\$ 766,283.40
PEC Share	167	\$ 600.00	\$ 100,200.00
			\$ 866,483.40